IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1455 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DISTRICT PANCHAYAT

Versus

GOVERNMENT APPROVED CONTRACTOR

Appearance:

1. Civil Revision Application No. 1455 of 1998

MR DC DAVE for Petitioner No. 1-2

MR BP DALAL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/03/2004

ORAL JUDGEMENT

The petitioners are the original defendants, against whom the respondent herein has filed a suit, being Special Civil Suit No.113/1990, which is pending in

the Court of Civil Judge (S.D.) at Navsari. In the aforesaid suit, the present petitioners, who are the original defendants filed, an application at Exh.110 for framing preliminary issue about limitation and to decide the same as a preliminary issue. The trial Court rejected the said application by observing that there are 15 issues which are already framed and all these issues are required to be decided after evidence is adduced by both the parties. The trial Court rejected the said application on the ground that the issue of limitation cannot be decided as a preliminary issue.

2) In my view, the order of the trial Court is an interlocutory order and in view of the amendment in Section 115 of C.P.C., this revision is not maintainable as it is filed against an interlocutory order. Accordingly, this Civil Revision Application is rejected. Rule is discharged. Interim relief stands vacated. No costs.

3) However, the trial Court may decide all these issues after recording the evidence of the parties. Mr.Dave, learned advocate for the petitioners states, that the issue of limitation is already framed by the trial Court. Accordingly, the issue of limitation is to be tried along with the other issues. Considering the fact that the suit is of 1990, the trial Court may dispose of the same latest by 31st March, 2005.

4) Writ to be sent to the trial Court forthwith.

(P.B.Majmudar,J.)

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